

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Jahangir Satti,

Complainant,

vs.

Cingular Wireless,

Defendant.

ECP
Case 04-07-030
(Filed July 12, 2004)

ORDER DENYING RELIEF

Summary

Jahangir Satti (Satti) seeks a refund from Cingular Wireless (Cingular) of all monies paid by him.¹ Satti claims that other than one call made to test the two cellular phones he purchased under his contract, he did not make any of the calls billed over the four-month period in dispute.

The evidence shows that the phones were used to make numerous calls, including calls to Satti's residence phone over the four-month period. Therefore, the Commission concludes that Satti has not met his burden of proof to show he

¹ The billing records show that Satti made only one payment (of \$123.88) on November 27, 2001, covering service establishment charges. No payments were made thereafter. The amount outstanding for the approximately four-month period in dispute is \$713.47.

should not be responsible for all calls made on his two cellular phones. The complaint is denied and this proceeding is closed.

Procedural Summary

The complaint was filed on July 12, 2004. Cingular filed its Answer to the Complaint on August 9, 2004. A hearing was held on October 13, 2004 in Stockton, and this matter was submitted for decision on that date.

Background

On October 24, 2001, Satti purchased two cellular phones and ordered two phone lines under a 2-year contract at \$19.99 per month, per phone. Under the contract he was allowed 50 minutes of peak-hour calls per month and unlimited night and weekend calls at no extra charge for calls made within a prescribed Home Calling Area, for each phone. On February 22, 2002, Cingular suspended the account for non-payment, and the account was closed on August 22, 2002. The account was later turned over to a collection agency after notice was mailed to Satti.

Positions of the Parties

Satti claims that except for one call to test the phones, he did not make any of the calls billed, and seeks a refund of all monies paid by him. He says that as a radiologist, he avoids using cellular phones because of the health risk involved. However, he purchased the phones because he is “on call” since he works in a hospital, and a phone would be useful in an emergency. According to Satti, as soon as he received his first bill, he called Cingular and asked them to “fix the problem,” but they did not do so. He says that he lives alone, some of the disputed calls were made at a time when he would be sleeping, and he has no reason to call his own residence.

Maureen Bookman, Cingular's representative, provided copies of Satti's calling and billing records for the entire period. She stated that Satti had been correctly billed in accordance with his contract, and the additional charges on Satti's bills were for calls originating outside his Home Calling Area. She believes Satti is not entitled to any adjustment because (1) at no time did he say the phones were lost, (2) both phones were used to make calls to his residence, and (3) there were calls between the phones from outside his calling area.

Discussion

We find no basis upon which to order the refund requested by Satti. It is not sufficient for Satti to claim that he did not make the disputed calls, or use the phones. When he received his first bill (10/25/2001-11/24/2001), he should have noted that 24 calls were made from one phone, and six calls from the other, and since he claims he was not using the phones he should have immediately requested Cingular to terminate the two telephone numbers because of unauthorized use. But he did not do so. Instead, he called Cingular to dispute the charges for calls originating outside his calling area. Apparently, he did not expect to be charged for those calls.

When Satti was asked why he purchased two phones, he stated that he was expecting a friend from abroad, and since a second phone was offered at nominal cost he thought his friend could use it. But, as it turned out, his friend purchased his own cellular phone and has since left the country.

Satti's call records show that 78 calls were made from both phones to his residence telephone number (209) 526-6871. Also, 45 calls were made from one cellular phone to the other, and all disputed calls originated from outside Satti's calling area, over the four-month period. The reasonable inference is that if the phones were not used by Satti, they were used by a friend or family member.

Regardless, Satti is responsible for all calls made on his phones since he did not timely report the alleged unauthorized use.

In sum, we conclude that Satti has failed to meet his burden of proof to show why he should not be responsible for the charges in dispute. The complaint should be denied.

O R D E R

IT IS ORDERED that:

1. The complaint against Cingular Wireless is denied.
2. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.